

III. REMARKS

1. Claims 8-34 are not unpatentable over Turcotte (US 5,930,239) in view of Gaskill (US 5,929,771) under 35 U.S.C. §103(a).

Applicant's invention according to claim 8 recites storing the subject of the event of said received calendar reservation "at the time of the event" in an electronic calendar of the second device". This is not disclosed or suggested by Turcotte in view of Gaskill.

Applicant's invention transmits a calendar reservation that includes a "subject and time" of an event. The calendar reservation is received at the second device and the "subject" is stored "at the time of the event" in an electronic calendar of the second device. No such disclosure is made by the combination of Turcotte and Gaskill.

Turcotte, as referenced by the Examiner, merely discloses sending a plain text message. The message only states that the meeting is cancelled. There is no disclosure in Turcotte of transmitting a "calendar reservation" as is claimed by Applicant, let alone storing this text message, in the calendar application, at the "time of the event".

In Turcotte, the user is sending a plain text message. This plain text message is likely stored locally, as is any other email text message, by the email client. However, Applicant's invention is quite different, and relates to a short message service. As is recited in Applicant's disclosure, an application type header is added that identifies the transmission, not as a short message, but as a short message containing information relating to and intended for a specific application. Thus, in Applicant's invention, as recited in claim 1, a "calendar

reservation" is transmitted. A "calendar reservation", as described and defined by Applicant is more than the plain text message disclosed in Turcotte. In Applicant's invention, as recited in claim 1, the "subject" of the "calendar reservation" is stored "at the time of the event" in an electronic calendar. There is simply no disclosure in Turcotte related to storing a "subject" of the text message (that the meeting for tonight is cancelled) "at the time of the event". Rather, Turcotte only discloses sending a plain text message to a mobile station. (Col. 7, lines 45-48). The user merely reads the email text message in the email client. There is no disclosure in Turcotte as to how this message might be stored, let alone that it might be stored in a "calendar application" at the "time of the event", as is described and claimed by Applicant.

In particular, Turcotte makes absolutely no suggestion that the message canceling the appointment for the evening would be stored at the time of the appointment, i.e. "the time of the event, as is claimed by Applicant. The Examiner in misinterpreting Turcotte by relating the mere storing of "the message prior to read it" with the "storing" of the "subject of the event" at the "time of the event", as claimed by the Applicant. In this regard, Turcotte discloses nothing more than a plain SMS system, where the message is stored locally, as it is received, to the device memory. Saving a message to memory so it can be read is simply not the same as storing a "subject of the event" at the time of the event", in an "electronic calendar". Turcotte is silent as to saving the plain message to an application, as in Applicant's invention. Thus, at least this feature of Applicant's invention is not disclosed or suggested by Turcotte.

Gaskill does not overcome at least this deficiency of Turcotte, and thus the combination of Turcotte with Gaskill does disclose or suggest each feature of Applicant's invention. In one aspect, Applicant's invention relates to using SMS to, for example, schedule an appointment. In Turcotte, the mere transmission of a plain text message cannot be interpreted as an appointment, as the Examiner has appeared to have done. Thus, Turcotte does not disclose or suggest each feature of Applicant's invention as is claimed. Furthermore, the business card interchange of Gaskill is not the same as the "calendar reservation" as claimed by Applicant. Therefore, the combination of the two references cannot disclose or suggest each feature of Applicant's invention as required for 35 U.S.C. §103(a).

Gaskill discloses programming a PCD 20 to contain an electronic business card. (Col. 9, lines 47-50). This business card is a "file" that includes certain information. (Col. 9, lines 51-56). This is not the same as a calendar request or reservation as is described and claimed by Applicant.

In Applicant's invention the "calendar reservation" is transmitted in a message. It is not a file, as is the case in Gaskill.

The "scheduling information" referred to by Gaskill in Col. 6, lines 42-43, is not the same as the "calendar reservation" claimed by Applicant. Gaskill only stores scheduling information. It does not disclose or suggest receiving a transmitted calendar reservation and storing the subject of the event of the received calendar reservation "at the time of the event" as claimed by Applicant. Gaskill only transmits a file, not a SMS. Thus, the combination of Turcotte with Gaskill does not disclose or suggest each feature of Applicant's invention as

claimed, and a *prima facie* case of obviousness cannot be established. Accordingly, claims 8, 15, 27, 31 and 35 should be allowable. Claims 9-14, 16-26, 28-30, 32-34 and 36-37 should be allowable at least be reason of their respective dependencies.

Furthermore, it is respectfully submitted that there is no legal motivation to combine Turcotte with Gaskill for purposes of 35 U.S.C. §103(a). In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. There must also be a reasonable expectation of success, and the reference(s), when combined, must teach or suggest all of the claim limitations. (See M.P.E.P. §2142). As noted above, the combination of Turcotte and Gaskill does not disclose or suggest each feature of Applicant's invention as claimed.

Additionally, neither Turcotte nor Gaskill provide any suggestion or motivation to be combined or modified as proposed by the Examiner. The Examiner's proposition that Applicants' invention would be obvious as recited in the claims is not supported by the factual contents Turcotte and Gaskill, since neither discloses each and every feature of Applicant's invention as claimed, as is noted above. Motivation for purposes of 35 U.S.C. §103(a) requires that the reference itself and/or the knowledge generally available to one of skill in the art provide the requisite motivation or suggestion to modify the reference. It is submitted that none can be found in either of the references or the combination thereof.

Turcotte is related to sending a plain message text that might be stored locally as a whole to a device memory. Turcotte does not

disclose, and one cannot imply from Turcotte, the notion of first establishing a meeting request that can be cancelled by the message that is disclosed as being sent (Col. 7, lines 45-47). Any attempt to do so could only be with hindsight knowledge of Applicant's invention. However, even that falls short for the disclosure of Turcotte, since it makes not mention of storing the message in a calendar application at the time of the event, as claimed by Applicant.

Turcotte does not disclose or suggest utilizing or storing the message anywhere other than in the device memory. To interpret the plain text message of Turcotte as the calendar reservation of Applicant's invention implies that there is a previously stored message at the time of the event in the calendar and that the message being sent (Col. 7, lines 45-47) would somehow cancel this previously stored message. There is however, no support in Turcotte for such a conclusion. Turcotte is merely exchanging plain SMS messages, such as for example:

"Hey Eric, should we meet?"

"Yah, sure, pick a day"

"How about 1st of February?"

"Sounds fine, see ya then! Hey, where? What time?"

"Pub Hazy Eyes, 8pm"

"OK! You buying?"

"NO!"

and two days later Eric replies, again by sending a plain SMS to John:

"Meeting cancelled"

According to the teachings of Turcotte, this message exchange might be stored locally. However, Turcotte makes no disclosure or suggestion that there would not be any storage of the "subject" of the event at the "time" of the event, as claimed by Applicant. Turcotte only relates to back and forth text messaging. Nothing more.

Gaskill relates to synchronization and not point-point messaging, with a payload and header. Gaskill relates to local connectivity and not point-to-point messaging. A business card in Gaskill is a physical file, whereas the calendar request on reservation of Applicant's invention is conveyed in a message, and is NOT a file.

Since Turcotte does not teach utilizing of the contents or storing payload data anywhere separately, just the message as a whole is saved upon receiving, a person skilled in the art would not turn to Turcotte when trying to find a solution to a calendar meeting request. The expert in the field knows instantly that Turcotte is specifying protocol issues and is not concerned about the payload of the message as such. Gaskill does not relate to point-to-point message, and one of skill in the art would not look to Turcotte from Gaskill, in an effort to achieve what is claimed by Applicant.

Applicant's claims recite storing the subject of the event at the time of the event. Turcotte might merely store the message locally once received. Gaskill merely relates to file transfer any synchronization. Thus, one of skill in the art would not be motivated to combine Turcotte with Gaskill to achieve a system that transmits a calendar reservation and storing the "subject" of the calendar reservation at the "time of the event" in the electronic calendar of the receiving device.

Thus, there is no teaching in either Turcotte or Gaskill to motivate a person of skill in the art to make the proposed combination. When "the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference". In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). The Examiner is requested to prove an indication as to where any such teaching, suggestion or motivation appears in the references. Absent such a teaching, it is submitted that a *prima facie* case of obviousness over Turcotte and Gaskill under 35 U.S.C. §103(a) is not established.

Additionally, it is respectfully submitted that claims 5-34 are not unpatentable over Turcotte in view of Gaskill under 35 U.S.C. §103(a) because Turcotte and Gaskill have been combined improperly. References may be combined under 35 U.S.C. §103(a) only if the references are analogous art. In this Turcotte and Gaskill are not analogous art. A reference is analogous art if:

- 1) The reference is in the same field of endeavor as the applicant's, or
- 2) The reference is reasonably pertinent to the particular problem with which the applicant was concerned.

Neither Turcotte nor Gaskill are in the same field as the Applicants' invention.

Turcotte is related to sending a plain message text that might be stored locally as a whole to a device memory. Gaskill relates to synchronization and not point-point messaging, with a payload and header. Gaskill relates to local connectivity and not point-to-point messaging. Applicant's invention, as recited in the claims, is directed to a system that transmits a calendar

reservation and stores the "subject" of the calendar reservation at the "time of the event" in the electronic calendar of the receiving device. Thus, Turcotte and Gaskill do not address the problems addressed by Applicants' invention.

Since Turcotte and Gaskill are not in the same field of endeavor as the Applicants' endeavor and are not reasonably pertinent to the particular problem with which the Applicants were concerned, Turcotte and Gaskill are not analogous art. Therefore, Turcotte may not properly be combined with Gaskill for purposes of 35 U.S.C. §103(a).

2. Claims 35-37 are not anticipated by Theimer et al. (US 5,812,865) under 35 U.S.C. §102(e).

There is no disclosure in Theimer of storing the "subject" of the event of the received calendar reservation at the "time of the event" in the electronic calendar. Col. 25, lines 1-67 does not disclose or suggest storing a calendar reservation in a calendar application at the time of the event, as is claimed by Applicant. Rather, Theimer only discusses how a message should be delivered or displayed and in particular "how a message should be delivered", for example if there are other people nearby. (lines 34-37). The message might be delivered to the "most appropriate device" (lines 40-41). Here, Theimer disclose nothing more than the local storage of the message in a storage device. Theimer does not make any suggestion of storing the "subject" of the event of the calendar reservation "at the time of the event" in an "electronic calendar", as is claimed by Applicant. Thus, claims 35, and 36-37 that depend there from, cannot be anticipated.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Enclosed is a check in the amount of \$120.00 for a one-month extension of time. The Commissioner is hereby authorized to charge payment for any other fees not included that are associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler Jr.
Reg. No. 44,004

9 September 2005
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: Sept. 9, 2005

Signature: Meaghan Baye

Meaghan Baye
Person Making Deposit